

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 332 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE A.K.TRIVEDI

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements? Yes.
 2. To be referred to the Reporter or not? No.
 3. Whether Their Lordships wish to see the fair copy of the judgement? No.
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No.
 5. Whether it is to be circulated to the Civil Judge?
No.
-

SMT AMBABEN BHAGUBHAI PATEL

Versus

A R VOHRA

Appearance:

MR JASHBHAI P PATEL for Petitioner
NOTICE SERVED for Respondent No. 1
MR MA PATEL, Ld. APP for Respondent No. 3

CORAM : MR.JUSTICE A.K.TRIVEDI

Date of decision: 23/09/98

ORAL JUDGEMENT

Heard learned advocate Mr. B.S. Patel for petitioner, and Mr. M.A. Patel, learned APP for respondent No.3.

2. That vide order dtd.15.7.98, this court permitted the petitioner the temporary custody of the subject vehicle bearing Registration No.GJ-16-T-515, which was seized by respondent no.2, on 28th January, 1998, on

conditions that:

- (1) The petitioner shall pay up the outstanding liability towards Tax and penalty, if any, within a period of two months from the date of release of the vehicle;
- (2) The petitioner shall maintain the vehicle in road-worthy condition and shall not make any change in its appearance;
- (3) The petitioner shall produce the vehicle before the RT authority, if and when required by the RT authority;
- (4) The petitioner shall not transfer or sell the vehicle in any manner pending the proceedings before the RT authority;
- (5) The petitioner shall file an undertaking before this court within a period of 15 days from today to the effect that she shall abide herself by the above conditions. Copy of the undertaking shall be furnished to the concerned RT authority.

3. That thereafter as no undertaking was filed in this court, office made submission and notified the matter for orders. On the basis of which, vide order dtd. 2nd September 1998, notice was ordered to be issued to the petitioner as well as learned Advocate for the petitioner. The notice served to the petitioner contain a statement of present petitioner that subject vehicle was sold by her to one Hasmukh Babubhai Valand of Surti Bhagol Road, Gujarat Housing Board Building, Ankleshwar, on or about 29.3.96. That thereafter he had been plying the said vehicle in the name of Harnath Travels.

4. Learned advocate Mr. B.S. Patel, who has appeared on behalf of original-petitioner Ambaben Bagubhai has stated that, on scrutiny of papers, it appears that, in fact the petition was filed on the instructions given by purchaser of the said vehicle Hasmukhbhai Babubhai Valand by advocate Mr. Jashbhai P. Patel. The petitioner had no interest in the subject vehicle and petitioner had neither given any instruction to the advocate nor petitioner desire to take the custody of the vehicle, and petitioner shall not take the custody of the vehicle provided that the petitioner is released from the order of filing of undertaking and permitted to withdraw the petition.

5. In over-all consideration of facts and circumstances, it appears that purchaser of the vehicle Hasmukhbhai Babubhai Valand had preferred present petition in the name of present petitioner as she continued to be the registered owner of the said vehicle and had failed to comply with the conditions as per earlier order dtd.15.7.98. In the said circumstances, petitioner is permitted to withdraw the present petition and released from the order of filing of undertaking vide earlier order dtd.15.7.98, as petitioner had not taken actual custody of the vehicle nor has filed the present petition. However, respondents shall be at liberty to seize the subject vehicle as and where they find it or may proceed against purchaser of the said vehicle Shri Hasmukhbhai Babubhai Valand of Surti Bhagol Road, Gujarat Housing Board Building, Ankleshwar.

6. Petition stands disposed of as withdrawn. Rule is discharged.

syed*